

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	
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BERNARD L. MADOFF INVESTMENT	:	SIPA LIQUIDATION
SECURITIES LLC,	:	No. 08-01789 (SMB)
	:	
Debtor.	:	
-----	:	
IRVING H. PICARD, Trustee for the Liquidation	:	
of Bernard L. Madoff Investment Securities LLC,	:	Adv. Proc. No. 09-1182 (SMB)
	:	
Plaintiff,	:	
-v-	:	
	:	
J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,	:	
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,	:	
ASCOT FUND LTD., GABRIEL CAPITAL	:	
CORPORATION,	:	
	:	
Defendants.	:	
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**DECLARATION OF DAPHNE T. HA IN OPPOSITION TO TRUSTEE'S
MOTION *IN LIMINE* NUMBER 2 TO LIMIT TESTIMONY OF J. EZRA MERKIN**

I, Daphne T. Ha, declare as follows:

1. I am an associate of the law firm of Dechert LLP, counsel to Defendants J. Ezra Merkin and Gabriel Capital Corporation. I make this Declaration to put before the Court certain documents in opposition to Trustee's Motion *In Limine* Number 2 to Limit Testimony of J. Ezra Merkin.
2. Attached hereto as Exhibit 1 is a copy of an excerpt from the deposition transcript of J. Ezra Merkin dated February 24-25, 2015.

3. Attached hereto as Exhibit 2 is a copy of Defendants J. Ezra Merkin and Gabriel Capital Corporation's Supplemental Responses to Plaintiff's Second Set of Interrogatories and Requests for Admissions in Accordance with Decision #3, dated August 30, 2013.

4. Attached hereto as Exhibit 3 is a copy of Gary Slutsker's article "If you can't beat 'em . . ." published in *Forbes* on January 6, 1992, and a copy of Richard Stern's article "Living off the spread" published in *Forbes* on July 10, 1989.

5. Attached hereto as Exhibit 4 is a copy of Michael Ocran's article "Madoff tops charts; skeptics ask how" published in *MAR/Hedge* in May 2001.

6. Attached hereto as Exhibit 5 is a copy of an excerpt from the deposition transcript of J. Ezra Merkin *In the Matter of Madoff Charities Investigation* by the Office of the Attorney General of the State of New York dated January 30, 2009.

7. Attached hereto as Exhibit 6 is a copy of an excerpt from the deposition transcript of Joel Ehrenkranz dated March 20, 2014.

8. Attached hereto as Exhibit 7 is a copy of the calendar belonging to J. Ezra Merkin spanning May 1996 through December 2008.

9. Attached hereto as Exhibit 8 is a copy of a collection of various emails from or to J. Ezra Merkin spanning February 2003 through March 2008.

10. Attached hereto as Exhibit 9 is a copy of an email from J. Ezra Merkin to Naomi Ferro regarding "Odds and Ends" dated February 9, 2003.

11. Attached hereto as Exhibit 10 is a copy of an excerpt from the deposition transcript of Christof Reichmuth dated June 24, 2014.

12. Attached hereto as Exhibit 11 is a copy of an email from J. Ezra Merkin to Patrick Erne regarding "RE: Meeting Request" dated October 3, 2007.

13. Attached hereto as Exhibit 12 is a copy of an excerpt from the deposition transcript of Michael E. Autera, Jr. dated October 19, 2011.

14. Attached hereto as Exhibit 13 is a copy of an excerpt from the deposition transcript of J. Ezra Merkin, *State of New York v. J. Ezra Merkin et. al*, No. 450879/2009 (Sup. Ct. N.Y. Cty.) dated July 1, 2010.

15. Attached hereto as Exhibit 14 is a copy of an excerpt from the deposition transcript of John L. Steffens dated October 9, 2012.

16. Attached hereto as Exhibit 15 is a copy of an email from J. Ezra Merkin to Michael Autera forwarding an email from Roman Igolnikov to J. Ezra Merkin regarding “Ariel/Amber and Ascot” dated March 13, 2004.

17. Attached hereto as Exhibit 16 is a copy of an email from Patrick Erne to J. Ezra Merkin regarding “Follow up” dated October 29, 2007.

18. Attached hereto as Exhibit 17 is a copy of an email from Michael Matlin to J. Ezra Merkin regarding “RE: Visit to Mr. Madoff” dated October 9, 2007.

19. Attached hereto as Exhibit 18 is a copy of an excerpt from the deposition transcript of [REDACTED]

20. Attached hereto as Exhibit 19 is a copy of an excerpt from the deposition transcript of Victor Teicher dated October 29, 2013.

21. Attached hereto as Exhibit 20 is a copy of an excerpt from the deposition transcript of Jason Orchard dated October 8, 2013.

22. Attached hereto as Exhibit 21 is a copy of an excerpt from the deposition transcript of Robert Rosenkranz dated October 4, 2012.

23. Attached hereto as Exhibit 22 is a copy of an excerpt from the deposition transcript of Noreen Harrington dated October 1, 2013.

24. Attached hereto as Exhibit 23 is a copy of an excerpt from the deposition transcript of Daniel Hess dated October 11, 2012.

Dated: New York, New York
May 10, 2017

/s/ Daphne T. Ha
Daphne T. Ha